

**GILBERT v. APC/NATCHIQ, INC.
ADDENDUM**

I WEEKLY BASIS

The emphasis in Piquini is on reaching a “weekly basis” for the annual salary Plaintiff Reeves received in order to calculate “overtime damages” under Alaska state regulation, 8 AAC 15.100 (a)(2). Reeves worked a rotating schedule and received his salary for all weeks whether he performed work or not. As a result, on appeal the court in Piquini determined his annual salary should be divided by the 52 weeks in a year to arrive at a weekly salary thereby allowing a calculation of regular and overtime rates.

Determining a “weekly basis” for Plaintiff Gilbert in this instance must also be accomplished before the “overtime damages” can be calculated. The method used to arrive at a weekly salary should be sensible and fair. Gilbert also worked on a rotating schedule but he was paid a daily salary based on the days he worked excluding time he did not work.

To divide his actual earnings by 52 weeks would have the result of devaluing his daily salary and the amounts of Gilbert’s daily salary are not in dispute. Therefore, an alternative method to the five regular day calculation in the attached report is also suggested.

In order to arrived at a “weekly basis” to compute Gilbert’s regular rate and subsequent overtime rate during the claimed period, the total amount of daily salary he earned was divided by the number of weeks he worked for each period in the audit. Every week worked was included whether Gilbert worked seven (7) days or less in the week.

II AUDIT

6/20/01-1/2/02	Daily Salary \$425	18 Workweeks
95 days @ \$425	=	\$40,375.00 Earned /18
Weekly Basis	=	\$ 2243.06 / 40
Regular Rate	=	\$ 56.08 x 1.5
Overtime Rate	=	\$ 84.12
612 Straight Time Hours x \$56.08	=	\$34,320.96
554.25 Overtime Hours x \$84.12	=	<u>\$46,623.51</u>
Total Earned	=	\$80,944.47
Total Paid	=	<u>\$40,375.00</u>
Overtime Owed	=	\$40,569.47
1/3/02 – 4/13/03	Daily Salary \$475	49 Workweeks
239 days @ \$475	=	\$113,525.00 Earned / 49
Weekly Basis	=	\$ 2316.84 / 40
Regular Rate	=	\$ 57.92 x 1.5
Overtime Rate	=	\$ 86.88
1531 Straight Time Hours x \$57.92	=	\$88,676.93
1124.25 Overtime Hours x \$86.88	=	<u>\$97,676.39</u>
Total Earned	=	\$186,353.31
Total Paid	=	<u>\$113,525.00</u>
Overtime Owed	=	\$ 72,828.31

Total "Overtime Damages" owed for the period 6/20/01 – 2/13/02:

\$ 40,569.47
\$ 72,828.31
 \$113,397.78*

* Please Note: The amount of overtime owed using the method described in the attached report (five days of daily salary for the weekly basis) and the weekly basis as outlined above result in a difference of less than \$500.